

Senate File 445

H-1384

1 Amend Senate File 445, as amended, passed, and reprinted by
2 the Senate, as follows:

3 1. Page 1, before line 1 by inserting:

4 <DIVISION I

5 LAW ENFORCEMENT OFFICER PRIVILEGE>

6 2. Page 3, after line 30 by inserting:

7 <DIVISION ____

8 CRIMINAL SENTENCING>

9 Sec. _____. Section 124.401, subsection 1, paragraph a,
10 subparagraph (3), Code 2017, is amended to read as follows:

11 (3) More than ~~forty~~ two hundred grams of a mixture or
12 substance described in subparagraph (2) which contains cocaine
13 base.

14 Sec. _____. Section 124.401, subsection 1, paragraph b,
15 subparagraph (3), Code 2017, is amended to read as follows:

16 (3) More than ~~ten~~ forty grams but not more than ~~forty~~
17 two hundred grams of a mixture or substance described in
18 subparagraph (2) which contains cocaine base.

19 Sec. _____. Section 124.401, subsection 1, paragraph c,
20 subparagraph (3), Code 2017, is amended to read as follows:

21 (3) ~~Ten~~ Forty grams or less of a mixture or substance
22 described in subparagraph (2) which contains cocaine base.

23 Sec. _____. Section 124.413, subsection 1, Code 2017, is
24 amended to read as follows:

25 1. Except as provided in subsection 3 and sections 901.11
26 and 901.12, a person sentenced pursuant to section 124.401,
27 subsection 1, paragraph "a", "b", "~~e~~", "e", or "f", shall not
28 be eligible for parole or work release until the person has
29 served a minimum ~~period~~ term of confinement of one-third of the
30 maximum indeterminate sentence prescribed by law.

31 Sec. _____. Section 124.413, subsection 3, Code 2017, is
32 amended to read as follows:

33 3. A person serving a sentence pursuant to section 124.401,
34 subsection 1, paragraph "b" or "~~e~~", shall be denied parole
35 or work release, based upon all the pertinent information as

1 determined by the court under [section 901.11, subsection 1](#),
2 until the person has served between one-half of the minimum
3 term of confinement prescribed in [subsection 1](#) and the maximum
4 indeterminate sentence prescribed by law.

5 Sec. _____. Section 707.11, Code 2017, is amended by adding
6 the following new subsection:

7 NEW SUBSECTION. 5. *a.* As used in this subsection, "*peace*
8 *officer*" means the same as defined in section 801.4.

9 *b.* For purposes of determining the category of sentence
10 under section 903A.2, the fact finder shall determine whether
11 the attempt to commit murder was against a peace officer, with
12 the knowledge that the person against whom the attempt to
13 commit murder was committed was a peace officer acting in the
14 officer's official capacity.

15 *c.* If the fact finder determines the attempt to commit
16 murder was against a peace officer as described in paragraph
17 "*b*", the person shall serve one hundred percent of the term of
18 confinement imposed and shall be denied parole, work release,
19 or other early release.

20 Sec. _____. Section 901.11, subsection 1, Code 2017, is
21 amended to read as follows:

22 1. At the time of sentencing, the court shall determine
23 when a person convicted under [section 124.401, subsection 1](#),
24 paragraph "*b*" or "~~*e*~~", shall first become eligible for parole
25 or work release within the parameters described in section
26 124.413, subsection 3, based upon all the pertinent information
27 including the person's criminal record, a validated risk
28 assessment, and the negative impact the offense has had on the
29 victim or other persons.

30 Sec. _____. Section 901.12, subsection 1, Code 2017, is
31 amended to read as follows:

32 1. Effective July 1, 2016, and notwithstanding section
33 124.413, a person whose sentence commenced prior to July 1,
34 2016, for a conviction under [section 124.401, subsection 1](#),
35 paragraph "*b*" or "~~*e*~~", who has not previously been convicted of

1 a forcible felony, and who does not have a prior conviction
2 under [section 124.401, subsection 1](#), paragraph "a", "b", or "c",
3 shall first be eligible for parole or work release after the
4 person has served one-half of the minimum term of confinement
5 prescribed in [section 124.413](#).

6 Sec. _____. Section 901.12, Code 2017, is amended by adding
7 the following new subsection:

8 NEW SUBSECTION. 1A. Effective July 1, 2017, a person whose
9 sentence commenced prior to July 1, 2017, for a conviction
10 under section 124.401, subsection 1, paragraph "c", shall not be
11 required to serve a minimum term of confinement as prescribed
12 in section 124.413.

13 Sec. _____. Section 902.4, Code 2017, is amended to read as
14 follows:

15 **902.4 Reconsideration of felon's sentence.**

16 For a period of one year from the date when a person
17 convicted of a felony, other than a class "A" or class "B"
18 ~~felony or a felony for which a minimum sentence of confinement~~
19 ~~is imposed~~, begins to serve a sentence of confinement, the
20 court, on its own motion or on the recommendation of the
21 director of the Iowa department of corrections, may order the
22 person to be returned to the court, at which time the court may
23 review its previous action and reaffirm it or substitute for it
24 any sentence permitted by law. Copies of the order to return
25 the person to the court shall be provided to the attorney
26 for the state, the defendant's attorney, and the defendant.
27 Upon a request of the attorney for the state, the defendant's
28 attorney, or the defendant if the defendant has no attorney,
29 the court may, but is not required to, conduct a hearing on
30 the issue of reconsideration of sentence. The court shall
31 not disclose its decision to reconsider or not to reconsider
32 the sentence of confinement until the date reconsideration is
33 ordered or the date the one-year period expires, whichever
34 occurs first. The district court retains jurisdiction for the
35 limited purposes of conducting such review and entering an

1 appropriate order notwithstanding the timely filing of a notice
2 of appeal. The court's final order in the proceeding shall be
3 delivered to the defendant personally or by regular mail. The
4 court's decision to take the action or not to take the action
5 is not subject to appeal. However, for the purposes of appeal,
6 a judgment of conviction of a felony is a final judgment when
7 pronounced.

8 Sec. _____. Section 902.12, subsection 1, paragraph b, Code
9 2017, is amended to read as follows:

10 b. Attempted murder in violation of [section 707.11](#), except
11 as provided in section 707.11, subsection 5.

12 Sec. _____. Section 903A.2, subsection 1, unnumbered
13 paragraph 1, Code 2017, is amended to read as follows:

14 Each inmate committed to the custody of the director of the
15 department of corrections is eligible to earn a reduction of
16 sentence in the manner provided in [this section](#). For purposes
17 of calculating the amount of time by which an inmate's sentence
18 may be reduced, inmates shall be grouped into the following ~~two~~
19 three sentencing categories:

20 Sec. _____. Section 903A.2, subsection 1, paragraph a,
21 subparagraph (1), unnumbered paragraph 1, Code 2017, is amended
22 to read as follows:

23 Category "A" sentences are those sentences which are not
24 subject to a maximum accumulation of earned time of fifteen
25 percent of the total sentence of confinement under section
26 902.12 and are not category "C" sentences. To the extent
27 provided in [subsection 5](#), category "A" sentences also include
28 life sentences imposed under [section 902.1](#). An inmate of an
29 institution under the control of the department of corrections
30 who is serving a category "A" sentence is eligible for a
31 reduction of sentence equal to one and two-tenths days for each
32 day the inmate demonstrates good conduct and satisfactorily
33 participates in any program or placement status identified by
34 the director to earn the reduction. The programs include but
35 are not limited to the following:

1 Sec. _____. Section 903A.2, subsection 1, paragraph b, Code
2 2017, is amended to read as follows:

3 **b.** Category "B" sentences are those sentences which are
4 subject to a maximum accumulation of earned time of fifteen
5 percent of the total sentence of confinement under section
6 902.12 and are not category "C" sentences. An inmate of an
7 institution under the control of the department of corrections
8 who is serving a category "B" sentence is eligible for a
9 reduction of sentence equal to fifteen eighty-fifths of a day
10 for each day of good conduct by the inmate.

11 Sec. _____. Section 903A.2, subsection 1, Code 2017, is
12 amended by adding the following new paragraph:

13 NEW PARAGRAPH. **c.** Category "C" sentences are those
14 sentences for attempted murder described in section 707.11,
15 subsection 5. Notwithstanding paragraphs "a" or "b", an inmate
16 serving a category "C" sentence is ineligible for a reduction
17 of sentence under this section.

18 Sec. _____. Section 903A.7, Code 2017, is amended to read as
19 follows:

20 **903A.7 Separate sentences.**

21 1. Consecutive multiple sentences that are within the
22 same category under [section 903A.2](#) shall be construed as one
23 continuous sentence for purposes of calculating reductions of
24 sentence for earned time.

25 2. If a person is sentenced to serve both category "A"
26 and category "B" sentences ~~of both categories~~, category
27 "B" sentences shall be served before category "A" sentences
28 are served, and earned time accrued against the category
29 "B" sentences shall not be used to reduce the category "A"
30 sentences. If an inmate serving a category "A" sentence is
31 sentenced to serve a category "B" sentence, the category "A"
32 sentence shall be interrupted, and no further earned time shall
33 accrue against that sentence until the category "B" sentence
34 is completed.

35 3. If a person is sentenced to serve both a category "C"

1 sentence and another category sentence, the category "C"
2 sentence shall be served before the other category sentence
3 is served, and no earned time shall accrue until the category
4 "C" sentence has been served. If an inmate serving a category
5 sentence other than a category "C" sentence is sentenced to
6 serve a category "C" sentence, the sentence of the other
7 category sentence shall be interrupted, and no further earned
8 time shall accrue against that sentence until the category "C"
9 sentence is completed.>

10 3. Title page, by striking lines 1 through 4 and inserting
11 <An Act relating to law enforcement including the establishment
12 of a law enforcement officer privilege and criminal sentencing,
13 and modifying certain criminal penalties.>

NUNN of Polk